(123)

HIGH COURT OF JUDICATURE CHHATTISGARH :: BILASPUR

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION No. 2585 of 2002

PETITIONER		Amdi Sector (HUDCO), Kalyan Evam Vikas Samiti, a Society registered under the Madhya Pradesh Societies Registrikaran Adhiniyam , 1973, Regn. No. being 21023 with its Head Office at MIG-I/742, Amdi Sector (HUDCO), Bhilai Through : Its General Secretary Shri V.S. Vindekar. MIG I/742, HUDCO, Bhilai
	Vs.	
RESPONDENTS	1.	Govt. of Chhattisgarh, Through : The Chief Secretary, Govt. of Chhattisgarh, Raipur
	2.	Collector, Durg
	3.	Sub-Registrar, Registry Office, Durg
	4.	Managing Director, Bhilai Steel Plant, Steel Authority of India Ltd. , Ispat Bhawan, Bhilai Nagar.

Present: Shri Rajiv Shrivastava, learned counsel for the petitioner.

Shri N.K. Agrawal, learned Dy. A.G., with Shri S.S. Agrawal, learned Govt. Adv., for the State.

Shri V.R. Tiwari, learned counsel for respondent No. 4.

ORAL ORDER

(Passed on 21st December 2005)

A Amdi Sector (HUDCO), Kalyan Evam Vikas Samiti, a Society registered under the Madhya Pradesh societies Registrikaran Adhiniyam, 1973, represented by its General Secretary, has preferred this writ petition under Article 226 of the Constitution of India complaining against the action of the respondents 1 to 3 in not registering the instruments of ownership of the houses allotted to their members.

(2) The background of the writ petition, in brief, be noted first and it is as follows:

Before the establishment of Bhilai Steel Plant, the fourth respondent herein, at the request of the Govt. of India contained in letter dated 08-01-1955, required the States of West Bengal, Bihar and Madhya Pradesh to make available 50 Sq. Miles of land for establishment of Steel Plants and for housing colony of the employees. Accordingly, the undivided State of Madhya Pradesh, it is stated, made available the required land to the Govt. of India, by two modes, viz. by way of acquisition under the Land Acquisition Act, 1894and by way of grant of government land free of cost in 1950s. Subsequently, the Steel Plant was established. When the matter stood thus, starting from 1960 as set out in the writ petition considerable extents of land had been diverted for housing purposes in favour of the several entities (refer to paras 5.9 to 5.19). In the circumstance, and having regard to the fact that the Management of the Bhilai Steel Plant was not in a position to construct required quarters to be allotted to individual employees of the Steel Plant, the employees of the Steel Plant had been agitating that the Management of the Steel Plant should provide houses to individual employees through their Trade Unions. Ultimately, a settlement was reached between the Management of the Steel Plant and the Trade Union of the employees and resultant position was the launching of a scheme called Amdi Housing Scheme with the financial assistance of the Housing and Urban Development Corporation (HUDCO). In pursuance of the said scheme, it is stated that about 2000 houses were constructed involving a total expenditure

of Rs. 6.39 crores with the financial assistance from the HUDCO and the contributions made by the employees themselves. After construction of the houses, those houses were also allotted to the employees according to their seniority. In terms of the scheme, the lease of land as well as of the house was to be executed between the Management of the Steel Plant and the allottees for a period of 99 years and the allottees were required to pay 1% premium as rent. It is also stated by the petitioner that possession of the houses were given to them. It is stated that though 24 lease agreements entered into between the management of the Bhilai Steel Plant and the employees were initially registered by the Sub Registrar, Durg, all of a sudden, on 20th May 1998 when some of the allottee employees submitted lease agreements for registration before the Sub Registrar, he refused to register the lease agreement stating that he had verbal direction from the Collector, Durg not to register the lease agreement in respect of the Amdi Housing Society until further instructions. Under the above circumstance, the writ petition was filed seeking intervention of the Court and for a direction to the third respondent, the registering authority to register the lease agreements entered into between the allottees and the Management of the Bhilai Steel Plant.

(3) Opposing the writ petition, reply is filed on behalf of the respondents 1 to 3. The Managing Director, Bhilai Steel Plant, the fourth respondent herein has also filed reply squarely supporting the claim of the petitioner. I have carefully perused the reply filed on behalf of the respondents 1 to 3. The reply is as scanty and in comprehensible as it could be and does not disclose the exact stand of

the respondents 1 to 3. However, at the time of hearing, opposing the relief sought by the petitioner, what the learned Deputy Advocate General could tell the Court is that the land in which the houses are built was made available to the Govt. of India with specific understanding that the said land should be used only for the purposes of the Bhilai Steel Plant and neither the Govt. of India nor the Management of the Bhilai Steel Plant had any legal authority to divert that land for any other purpose. Learned Deputy Advocate General would maintain that the land was diverted for the construction of the houses in breach of the terms and conditions of grant.

(4) Although that is the contention of the learned Deputy Advocate General in the course of the argument, there is absolutely no factual plea taken in the reply to support that claim. Be that as it may, even at the time of hearing also, learned Dy. Advocate Generl could not place before the Court in terms and conditions subject to which the undivided State Govt. of Madhya Pradesh had made available land to the Govt. of India for establishing Steel Plant. It is also not forthcoming from the reply of the respondents 1 to 3 as to what was a total extent of land made available to the Govt. of India, and out of which what was the extent of land acquired under the Land Acquisition Act, 1894 and what was the extent of land granted by the State Government free of cost. It is well established that if a land acquired for a public purpose and such land is not used for that purpose fully or partly, the left over land could be used for some other public purpose. The State Government of Madhya Pradesh having acquired the land for the Govt. of India/and/or Bhilai Steel Plant and having handed over physical

possession of the land in favour of the Govt. of India/and/or the Management of the Bhiai Steel Plant in 1950s cease to have the ownership rights over such land. It may be that with regard to the land granted by the State Government free of cost, perhaps it might have imposed conditions with regard to the use of the land but, nothing is produced before the Court to show that the terms and conditions to which the grant was made, free of cost by the State Government of Madhya Pradesh in favour of the Govt. of India/and or Management of the Bhilai Steel Plant have been violated. Furthermore, it needs to be noticed that the land was allotted for construction of the houses as far back as in the year 1982 under the nose of the Government, the undivided State Government of Madhya Pradesh, but, they had not taken any action to annul the grant on the ground of breach of the terms and conditions of the grant. The State Government without canceling the grant made in favour of the Govt. of India/and or Management of the Bhilai Steel Plant cannot oppose the construction of houses. In conclusion, I should say that the impugned directive issued by the District Collector and subsequently satisfied by the State Government and its authorities is required to be condemned as arbitrary and irrational and without the authority of law. The writ petition is, therefore, allowed. The direction shall issue to the third respondent to register instruments of lease-cum-sale, in accordance with law.

Sd/-
Chief Justice

Brajesh